

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**BREANA SCHENK, as next best
friend to Ev M, Em M, and El M,
and the ESTATE OF KELSEY
DELYAH SCHENK-McKEE,**

Plaintiffs,

VS.

PAUL A. THOMAS, GIBSON)
COUNTY SHERIFF, et al.,)

Defendant.

NO. 22-cv-01268- STA-jay

**ORDER DENYING MOTION TO DISMISS AS MOOT
AND GRANTING PLAINTIFFS' MOTION TO AMEND COMPLAINT
AND DIRECTING PLAINTIFFS TO FILE AMENDED COMPLAINT**

Plaintiff has filed a combined response to Defendants' motion to dismiss and a motion to amend her complaint. (ECF No. 16.) Defendant has not responded to the motion within the requisite time. For good cause shown, Plaintiff's motion is **GRANTED**. Plaintiffs will have seven (7) days from the entry of this order in which to file their amended complaint. (ECF No. 16-2.)

In light of the filing of an amended complaint by Plaintiffs, Defendants’ motion to dismiss is **DENIED** as moot. (ECF No. 13.) *See Parry v. Mohawk Motors of Mich., Inc.*, 236 F.3d 299, 306 (6th Cir. 2000) (holding that the amended complaint supersedes all previous complaints and becomes the operative pleading)); *see also Glass v. The Kellogg Co.*, 252 F.R.D. 367, 368 (W.D. Mich. 2008) (“Because the original complaint has been superseded and nullified, there is no longer

a live dispute about the propriety or merit of the claims asserted therein; therefore, any motion to dismiss such claims is moot.”)

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: April 17, 2023